IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 23295 of 1998

Between:

B.L.Gurjar, S/o.Late Shooleram Gurjar,
Aged about 32 years, working as Constable with No.892298314

in CISF Unit, BHEL (r), Hyderabad-500 032.

..... PETITIONER

AND

1. The Deputy Inspector General, CISF, South Zone Headquarters,

Chennai.
2. The Commandant, CISF Unit, BHEL (R), Hyderabad-500 032.
3. The Group Commandant, CISF, CISF Group Headquarters, Red Hills
Hyderabad.
4. The Assistant Commandant, CISF, NRSA, Balanagar, Hyderabad -

500 037.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the Proceedings No. E-22015/EB/Adm-II/98-1610 dated;2-4-1998 of the Commandant ,CISF Unit , BHEL (R), Hyderabad-32, as arbitrary, illegal, unconstitutional and violative of CISF Rules and also violative of the Constitution of India, and consequently direct the respondents to grant him an increment for crossing of efficiency bar with effect from 1-6-1993 and remove the difference of pay parity between the petitioner and his other colleagues and grant him all consequential benefits that will accrue on that basis.

Counsel for the Petitioner: MR.T.P.ACHARYA

Counsel for the Respondents: MR.T.NIRANJAN REDDY

The Court made the following:

O R D E R:

This writ petition is filed seeking mandamus declaring the proceedings No.E-22015/EB/Adm-II/98-1610, dated 02-04-1998 of the second respondent, as arbitrary and illegal and consequently to direct the respondents to grant an increment for crossing the efficiency bar w.e.f. 01-06-1993 and also remove the difference of parity in the pay of the petitioner.

The petitioner, while working as a Constable in Central Industrial Security Force (CISF) at Shadnagar, was charge sheeted for certain misconduct on 14-05-1992. After a detailed enquiry into the matter, the fourth respondent passed an order on 16-06-1992 withholding one increment for a period of one year without cumulative effect, which was due in the month of June, 1993. Aggrieved by the same, the petitioner preferred an appeal before the third respondent. The third respondent, after considering the entire material on record, modified the order dated 16-06-1992 to that of censure by his orders dated 20-10-1992.

While so, the fifth pay revision commission came into effect and pay of the petitioner was fixed less pay to that of his colleagues. The petitioner was denied increment. The petitioner was drawing Rs.940/- in the old scale whereas his batch mates were drawing Rs.960/-. Therefore, in the pay revision as per the recommendations of the fifth pay commission, his pay on par with his batchmates was denied. Therefore, he made a representation on 09-01-1998 and the second respondent issued a communication dated 21-01-1998 intimating that as he was drawing Rs.940/- in the old scale and as his other batch mates were drawing Rs.960/-, he was not entitled to the difference of

pay. Further, the respondents furnished reasons stating that the DPC found the petitioner unfit to cross efficiency bar w.e.f. 01-06-1993. Therefore, he cannot compare himself with his batch mates and claim salary on par with them.

The respondents asserted the same by way of filing a detailed counter stating that since the petitioner was not found fit to cross efficiency bar on 01-06-1993 at the stage of pay of Rs.900/- by taking his overall performance and the annual remarks for the year 1992 which were found to be below average. The petitioner has a right of consideration for crossing the efficiency bar when it is due. He should be allowed to cross the efficiency bar only after the DPC finds him fit and not otherwise. Therefore, the petitioner has no cause and the writ petition is liable to be dismissed.

Heard both sides.

The learned counsel for the petitioner submits that the DPC which met in the year 1992 had taken into consideration the punishment which was imposed on the petitioner i.e., withholding of one increment for a period of one year without cumulative effect on 16-06-1992 which, in fact, was modified by the appellate authority on 20-10-1992 to that of censure. Had this been taken into consideration, the petitioner would have been entitled for grant of one increment and would have earned the increment and his pay would have been Rs.960/- on par with his batch mates. The respondents failed to take note of this.

The learned counsel for the respondents submits that the petitioner was declared unfit to cross the efficiency bar and that was only the reason he was not paid difference of pay scale on par with his batch mates and not otherwise. When the records were called for, the same were obtained by the learned counsel for the respondents and placed before this court.

As per the records, the DPC, which met in 1992, has taken the stigma which was attached to him since he was imposed with

punishment of stoppage of one increment without cumulative effect which was later modified to that of censure, and he was not found fit to cross the efficiency bar. Therefore, the only reason for the DPC to find the petitioner not fit to cross the efficiency bar was that, as on that date, the stigma was attached to him, which, later ended in censure. Therefore, I am of the considered opinion that the DPC has to reconsider the matter and treat that the petitioner has no stigma as on that date and his pay should be treated as Rs.960/- on par with his batch mates and subsequent revision etc., shall be implemented in that place.

Accordingly, the writ petition is disposed of. No costs.

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12-10-2004.

Lrkm.

To

1. The Deputy Inspector General, CISF, South Zone Headquareers, Chennai.
2 . The Commandant, CISF Unit, BHEL (R),Hyderabad-500 032.
3. The Group Commandant,CISF, CISF Group Headquarters, Red Hills Hyderabad.
4. The Assistant Commandant, CISF, NRSA Balanagar, Hyderabad - 500 037.

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